September 11, 2016

The Honorable Sylvia Mathews Burwell, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Healthy Indiana Program 2.0 § 1115 Demonstration Waiver – Non-Emergency Medical Transportation (NEMT)

Dear Secretary Burwell,

We appreciate the opportunity to comment on Indiana's proposal to extend its waiver of NEMT for the Healthy Indiana Program (HIP) 2.0. The National Health Law Program (NHeLP) protects and advances the health rights of low income and underserved individuals. The oldest non-profit of its kind, NHeLP advocates, educates and litigates at the federal and state level.

While we support states providing Medicaid coverage to low-income adults, we ask CMS to deny Indiana's proposal to extend this waiver of NEMT for its HIP 2.0 demonstration. The evidence the state provides in support of the extension is flawed, incomplete and fails to justify extending the waiver for this important service.

Indiana acknowledges that its initial NEMT evaluation evidence is flawed. The state has published one relatively small NEMT evaluation, conducted by the Lewin group in February 2016. That study acknowledges significant shortcomings, including a small sample size and more fundamental methodological problems due to the absence of an appropriate comparison group. The Lewin group acknowledges that the state plan population with access to NEMT differs substantially from the HIP population in terms of income, health need and in other key demographic features likely to impact access and need for NEMT. The report goes so far to say that: "these populations are very different; a direct comparison of their proportions is not

advisable."[1] The differences are large enough to render cross-group comparisons more misleading than informative. The very implausible result that individuals with no access to NEMT reported fewer missed appointments due to transportation barriers (6%) than individuals who do have an NEMT benefit (11%) suggests either key unmeasured variables or a fundamental flaw in the comparative approach as a justification for an NEMT waiver.[2]

The state notes it may have found a slightly better comparison group because one of the three HIP MCOs offers its own NEMT benefit (not funded by the state). However, the data presented does not include key demographic data for the MCO subgroups (health status, age, gender) to show similarities (or differences) between the MCO populations. Factors like selection bias could lead to substantial differences. Results from a second, larger survey conducted in June 2016 address some, but not all these shortcomings. Unfortunately, the state has not made the full results and methodology of the second survey publicly available. This perplexing omission renders it impossible for stakeholders to assess whether the results from the second study indeed support the state's claims.

Other important shortcomings of the evaluation design are not acknowledged in either survey:

- **Both surveys conducted by the Lewin group focus narrowly on missed appointments, which ignores individuals who have no access to transportation and thus make no appointments or avoid care altogether.** The appropriate unit of analysis should be to measure unmet need for care due to lack of transportation. The federal evaluation of Indiana's HIP demonstration will survey unmet care needs due to transportation and may find quite different results than Lewin Group did.

- **The published Lewin Group evaluation does not discuss or address potential response bias in its survey.** Iowa's evaluation found that survey respondents skewed older, whiter and more female than the actual population.[3] Indiana's analysis does not include any data on response rates or on demographic discrepancies between respondents and the general HIP population. It is plausible that isolated individuals who lack adequate access to transportation may be systematically less likely to respond to the survey (e.g. individuals with limited English proficiency).

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[1] The Lewin Group, Indiana HIP 2.0: Evaluation of Non- Emergency Medical Transportation (NEMT) Waiver, 21 (Updated March 2016).
[2] Indiana Family & Social Services Administration (FSSA), NEMT Waiver Amendment Request to the Healthy Indiana Plan (HIP) 2.0 Medicaid Section 1115 Demonstration Waiver, 3 (August 2016).
[3] Suzanne Bentler, et al., University of Iowa Public Policy Center, Non-Emergency Medical Transportation and the Iowa Health and Wellness Plan, 26 (Mar. 2016), http://ppc.uiowa.edu/sites/default/files/nemt_report.pdf.

- **Neither survey really addresses the quality and accessibility of Indiana's existing NEMT benefit.** An alternative, equally plausible interpretation of the state's presented evidence is that Indiana's NEMT benefit is poorly understood or difficult to access for beneficiaries who can access it. The state suggests that it has added questions on awareness of the NEMT benefit in the larger Lewin study, but does not detail what proportion of members with NEMT know about the service (let alone how to access it.) CMS could not justify approving a renewal of the waiver of the NEMT benefit for the HIP expansion if the reason for "comparable" results is due to an ineffective current NEMT delivery system.

- **Indiana's NEMT evaluation fails to address the potential disparate impact of its NEMT waiver on people of color and individuals with significant health care needs.** Iowa's most recent NEMT evaluation found that people of color are significantly more likely to report unmet care needs due to transportation (83% higher odds for Blacks, 31% for Hispanics). People in relatively poorer health (58% higher odds), with multiple physical ailments (63%) or who have any functional deficit (245%) are also *much* more likely to report unmet transportation needs.[4] This evidence strongly suggests that waiving the NEMT benefit disproportionately impacts these groups. While Indiana's evaluation does stratify by income and gender, it does not include any data on racial or ethnic differences or primary language. Given the recent findings from Iowa, health equity issues should factor heavily into CMS's evaluation of the proposed waiver extension. CMS must not approve a continued waiver of this benefit because it likely exacerbates long-standing healthcare disparities for populations that have been historically underserved.

Given these shortcomings, and in light of the upcoming federal evaluation of HIP 2.0 that includes more appropriate questions related to transportation access, CMS should not approve an extension to Indiana's NEMT waiver.

NEMT may not be necessary for everyone, but it is crucial for some of the most vulnerable people and likely helps reduce health disparities. In many ways, the comparative evaluation structure entirely misses the mark by highlighting the relatively small proportion of the general population that needs NEMT. NEMT is most commonly used by individuals who may not be able to drive themselves, may not have access to a car or public transportation, or may have other challenges that make it difficult to get around, such as a disability. Depending on social networks to satisfy medical transportation needs can be unreliable and presents a real barrier to accessing needed care. While most beneficiaries can find ways to get to a provider when they need care most of the time, the NEMT benefit is intended to ensure that *all* beneficiaries, including the most vulnerable, can obtain needed care.

Indiana's data, for all its flaws, clearly shows that many people across the state still have problems getting to a doctor when they need it. Projected over the whole HIP population without access to state-sponsored NEMT (~144,000 individuals), the Lewin

[4] Id. at 22.

survey results indicate that nearly 9000 HIP 2.0 members (6%) miss an appointment due to transportation barriers every six months.[5] This is not a trivial number. Even if NEMT only reaches a fraction of that group, it would substantially improve access to care for thousands of individuals, especially groups that are historically underserved. Indiana's evaluation and request to extend this waiver focuses on the majority of users while not acknowledging or addressing the expressed needs of a sizeable minority that disproportionately include key protected classes.

Conclusion

The broader point here is that a waiver of NEMT does not promote the objectives of the Medicaid program and likely contributes to persistent health disparities. While we support the continuation of Medicaid expansion coverage, we urge CMS to reject Indiana's request for an NEMT waiver extension. Thank you for considering our comments. If you have any questions or need any further information, please contact David Machledt (machledt@healthlaw.org; 202-384-1271), Policy Analyst, at the National Health Law Program.

Sincerely,

Jane Perkins,
Legal Director

[5] The Lewin Group, *supra* note 1, at 5 &13. This represents more than a third of the individuals in this population who reported missing an appointment during the survey period (16%). Id. at 21.